

c: ack

ORIGINAL

JOHN HARRIS PAER #1551-0
41 B Kepola Place
Honolulu, Hawaii 96817
Telephone: (808) 595-7179
Facsimile: (808) 595-3918
email: paerj001@hawaii.rr.com

Attorney for Plaintiff

FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

OCT 20 2009
at 10 o'clock and 10 min.
SUE BEITIA, CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

CV 09 00502 ACK BMK

KAWIKA CANTERBURY and POLLY) CIVIL NO.
CANTERBURY,)
)
Plaintiffs,) COMPLAINT; EXHIBIT "A";
) SUMMONS
vs.)
)
CENTRAL PORTFOLIO CONTROL, INC.)
and LVNV FUNDING, LLC.,)
)
Defendants.)
)

COMPLAINT

COMES NOW Plaintiff, by and through his undersigned attorney and alleges as follows:

INTRODUCTION

1. This Complaint is filed and these proceedings are instituted under the "Fair Debt Collection Practices Act" 15 U.S.C. Section 1692, et seq., to recover actual and statutory damages, reasonable attorney's fees and costs of suit by reason of the Defendant's violations of that Act. Plaintiff seeks actual and statutory damages arising out of Defendant's misrepresentations and failure to make required disclosures in the collection of an alleged debt.

JURISDICTION

2. The jurisdiction of this Court is invoked pursuant to 15 U.S.C.A. Section 1692k(d) and 28 U.S.C.A. Section 1337. The supplemental jurisdiction of this Court is invoked over Count II of the Complaint, which arises under Chapters 443B and 480 of the Hawaii Revised Statutes.

PARTIES

3. Plaintiffs are natural persons and are residents of the State of Hawaii.

4. Defendant Central Portfolio Control, Inc. (hereinafter "Central") and Defendant LVNV Funding, LLC (hereinafter "LVNV") are each corporations doing business in the State of Hawaii as a collection agency and debt collector, and are subject to the jurisdiction of this Court.

FACTS

5. Within the year prior to the filing of this action, LVNV has been attempting on behalf of a third party to collect an alleged debt from Plaintiff, Kawika Canterbury.

6. On or about September 26, 2009, Defendant LVNV sent its first letter to Plaintiff. A true copy of that letter is attached hereto as Exhibit "A".

7. By its actions and omissions, Defendant Central has improperly assisted in the collection of the above alleged debt, and is jointly and severally liable with Defendant LVNV.

8. Plaintiff hereby disputes the alleged debt and requests verification of the alleged debt.

9. The underlying debt was incurred primarily for personal, family, or household purposes.

10. Plaintiffs owe nothing to Central nor to LVNV.

COUNT I

11. Plaintiffs reallege and incorporate paragraphs 1 through 10 of this Complaint.

12. Each Defendant has violated the Fair Debt Collection Practices Act in the following ways:

(a) Each Defendant has used false, deceptive and misleading misrepresentations in connection with the collection of the above claim in violation of 15 U.S.C. §1692e.

(b) Each Defendant has used unfair means to collect and to attempt to collect the above claim in violation of 15 U.S.C. §1692f.

(c) Each Defendant has not sent to Plaintiffs the proper notices and/or verifications required by the Act in violation of 15 U.S.C. §1692g.

COUNT II

13. Plaintiffs reallege and incorporate paragraphs 1 through 12 of this Complaint.

14. Each Defendant has violated Chapters 443B and 480 of the Hawaii Revised Statutes as alleged above.

15. Each Defendant's violations of HRS Chapter 443B and of the Fair Debt Collection Practices Act constitute unfair and deceptive acts or practices in violation of H.R.S. Chapter 480.

16. Each Defendant's actions, contacts, demands and disclosures in connection with the above-described collection were immoral, unethical, oppressive, unscrupulous, and substantially injurious to Plaintiffs as consumers, and were unfair and deceptive, in violation of H.R.S. Chapter 480. The acts and representations of each Defendant described herein had the capacity to deceive Plaintiffs, and would deceive a reasonable consumer.

17. Plaintiffs have suffered injury to their property in an amount to be proved at trial, by reason of Defendant's violations.

WHEREFORE, Plaintiffs prays that the Court:

AS TO COUNT I

1. Award Plaintiffs their actual damages as will be proved.

2. Award Plaintiffs statutory damages of \$1000.00 each.

AS TO COUNT II

3. Award Plaintiffs damages in the amount of three times the injury to their property, but not less than \$1000.00 each.

AS TO ALL COUNTS

4. Award Plaintiffs their reasonable attorneys' fees and costs.

5. Award Plaintiffs other appropriate relief.

DATED: Honolulu, Hawaii, October 20, 2009.



JOHN HARRIS PAER
Attorney for Plaintiffs